

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID HARDY,

Petitioner,

v.

CASE NO. 2:10-14310
HONORABLE GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

THOMAS BIRKETT,

Respondent.

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**OPINION AND ORDER DENYING THE MOTION FOR
RECONSIDERATION OF THE CERTIFICATE OF APPEALABILITY**

On September 11, 2013, this Court denied petitioner's habeas application that had been brought pursuant to 28 U.S.C. § 2254 and also denied petitioner a certificate of appealability and leave to appeal *in forma pauperis*. The United States Court of Appeals for the Sixth Circuit subsequently denied petitioner's application for a certificate of appealability, his motion for leave to proceed *in forma pauperis*, and dismissed the appeal. *Hardy v. Birkett*, No. 13-2328 (6th Cir. June 10, 2014).

Pending before the Court is petitioner's "Motion for Reconsideration," in which he asks this Court to grant him a certificate of appealability on his claims.

In light of the fact that the Sixth Circuit has denied petitioner a certificate of appealability and dismissed petitioner's appeal, any motion for a certificate of appealability will be denied as moot. See *Woodberry v. Bruce*, 203 F. App'x. 186, 189 (10th Cir. 2006). The Sixth Circuit's denial of petitioner's motion for a certificate of appealability and the dismissal of petitioner's prior appeal divested this Court of any

power to grant petitioner a certificate of appealability on the issues he previously appealed and lost on before the Sixth Circuit. *Id.*

IT IS ORDERED that Petitioner's "Motion For Reconsideration" [Dkt. # 42] is
DENIED AS MOOT.

Dated: August 18, 2014

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on August 18, 2014, by electronic and/or ordinary mail and also on David Hardy #159525, Bellamy Creek Correctional Facility, 1727 West Bluewater Highway, Ionia, MI 48846.

s/Barbara Radke
Deputy Clerk